murder, Tindal in behalf of his client demanded wager of battle, and convinced the court that as the law stood they had no option but to support the appellee's refusal to put himself on the country. By this ingenious use of the old law Tindal saved his client; for when Thornton was indicted by the Crown he was able to plead *autrefois acquit*, and was immediately dismissed. In 1829 Tindal was made Chief Justice of the Common Pleas, having been Solicitor-General, and for several years a member of Parliament. During the seventeen years he presided over this court he was remarkable for his urbane and dignified manners, his invariable good temper, and his sound exposition of the law. As a judge he was almost universally looked up to and respected. Socially he seems to have inspired those who knew him with a strong and respectful regard. His usually grave demeanor made familiarity impossible, but his courtesy and amiable disposition engaged people's affections. He died in 1846.

Sir William Henry Maule was a judge of the Court of Common Pleas from 1839 to 1855. He was educated at Trinity College, Cambridge, and was senior wrangler in the mathematical tripos and fellow of the college. His favorite study was mathematics, in which he was singularly proficient, being offered a professorship in that science at Haileybury College, which he refused. In 1814 he was called to the bar, where his advancement, though not rapid, was steady and sure. He had a great reputation as a commercial lawyer, being an acknowledged authority on questions of maritime insurance. He was king's counsel, counsel to the Bank of England, and a Liberal member of Parliament. In 1839 he was made baron of the Exchequer and knighted, and the same year was transferred to the Common Pleas. He resigned from that court in 1855, but was shortly after sworn of the Privy Council, and served on the Judicial Committee till his death in 1858. Maule was one of the best judges of the Common Pleas. His thorough knowledge of law was reinforced by sound common sense, and his ingenuity for defeating technicalities was happily a marked characteristic. His judgments are excellent examples of proper judicial opinions, — clear, pithy, and enriched with well-chosen illustrations. Both at the bar and on the bench Maule was famous for his ironical humor. This habit of mind it is said sometimes led to unlooked-for results at Nisi Prius trials of criminals. After the judge's summing up, the jury in their deliberations frequently mistook the ironical language they had listened to as the serious opinion of the court, and returned a verdict precisely opposite to what was looked for and desired. Socially Maule was distinguished for refined pleasantry and cordiality of friendship.

A MAXIM MISUSED. — Fallacy shields itself behind many a Latin maxim. "*Ignorantia juris non excusat;*" this maxim has done its share in confusing the law of quasi-contracts. Its original meaning was that one person cannot excuse wrong done to another by showing that he acted in ignorance of the law. As misapplied in *Bilbie* v. *Lumley*, 2 East, 469, the words have had the additional meaning attributed to them that a plaintiff who brings action to recover money paid under mistake of law cannot recover. Founded on a misconception, this doctrine has dominated English law, and is to-day received in most American States. When an illegal tax has been paid under belief that it is legal, and the payer demands repayment of his money, the courts, as in the recent case of *Pomeroy* v. *Board of Commissioners of Graham County*, 50 Pac. Rep. 1094

(Kans.), refuse relief almost without discussion. A few courts, however, have noticed the fallacy, and have properly declined to follow the English authorities. *Northrup* v. *Graves*, 19 Conn. 548. Ignorance of law, indeed, does not excuse; but one who has paid money under a mistake of law does not ask excuse, for he has done no wrong. In conscience he is as much entitled to recover his money as if his mistake had been one of fact, and the law should afford him the same redress.

RECENT CASES.

CONFLICT OF LAWS — FOREIGN CORPORATIONS — TAXATION. — A statute provided that non-residents doing business in the State of New York should be taxed on all sums invested in that business, as if they were residents. *Held*, that the credits of a foreign corporation were thereby subjected to taxation. *People* v. *Barker*, 48 N. Y. Supp. 553.

The tax is laid not upon the right of the foreign corporation to do business in New York, but on its property. Property of a non-resident must be situated within the State in order that it may be taxed there. *People* v. *Comm'rs of Taxes*, 23 N. Y. 224. The *situs* of a debt is the domicile of the creditor, and it can be taxed there, *Kirtland* v. *Hotchkiss*, 100 U. S. 491; but not elsewhere, *State Tax on Foreign-held Bonds*, 15 Wall. 300. A person can have only one domicile at one time, *Abington* v. *No. Bridgewater*, 23 Pick. 170; and the State of incorporation is the domicile of the corporation. *Paul* v. *Virginia*, 8 Wall. 168, 181. Ingraham, J., dissenting in the principal case, follows this reasoning. The notion of the majority, that the credit is in New York merely because it appears on the books of the agency there, seems to be unsound.

CONFLICT OF LAWS — TORTS — STATUTES. — Kentucky and Tennessee have somewhat similar statutes as to recovery for causing death wrongfully. Plaintiff's decedent was killed in Tennessee by defendant's negligence. In that State contributory negligence is not a bar to an action, but merely goes in mitigation of damages. In a suit in Kentucky, where contributory negligence is a bar, *held*, that the law of Tennessee should govern defendant's liability. *Louisville & N. R. R. Co.* v. *Whitlow's Adm'r*, 43 S. W. Rep. 711 (Ky.).

Actions for common-law torts to the person or to personal property are generally held to be transitory in their nature, and may be brought wherever the wrongdoer may be found and jurisdiction of his person obtained. *Mitchell* v. *Harmony*, 13 How. 115. The English courts, however, refuse to enforce rights acquired by foreign law unless by English law the defendant would have been liable. *The Halley*, L. R. 2 P. C. 193. In this country the question usually arises in regard to actions for torts which are made actionable by statute in the place where they are committed. The earlier cases refused recovery on the ground that they would not enforce foreign penal laws, — a reason sound enough, but not applicable to the facts. The courts now generally hold that such rights will be enforced where there is a similar though not identical statute in the forum. *Dennick* v. *R. R. Co.*, 103 U. S. 11. Whether a similar statute in the forum is necessary is not everywhere agreed, but the true rule is believed to be as follows. Rights acquired in one State, whether in contract or tort (except certain classes of torts to realty), by statute or the common law, will be enforced everywhere unless contrary to public policy as interpreted in the forum. That the *lex fori* would not have considered the act a tort or the contract valid does not show it to be against public policy; it must be against good morals or natural justice. *Herrick* v. *Minneapolis, etc. R. R. Co.*, 31 Minn. 11.

CONSTITUTIONAL LAW — EX POST FACTO STATUTE. — A statute was passed after a crime was committed, which abrogated the previously existing rule that writings were not admissible for comparison with a disputed writing, unless they were in evidence and admitted to be in the handwriting of the party affected. *Held*, that it was not an *ex post facto* law. *State* v. *Thompson*, 42 S. W. Rep. 949 (Mo.).

Every law that alters the legal rules of evidence, and receives less or different testimony than the law required at the time of the commission of the offence, in order to convict the offender, is *ex post facto*. *Calder* v. *Bull*, 3 Dall. 386. This test has always been acceded to. *Kring* v. *Missouri*, 107 U. S. 221. But the principal case is